

CHAPTER 9515
DEPARTMENT OF HUMAN SERVICES
STATE HOSPITAL ADMINISTRATION

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ADMINISTRATION OF SPECIFIED THERAPIES TO STATE HOSPITAL PATIENTS

9515.0200 PURPOSE AND APPLICABILITY.

Parts 9515.0200 to 9515.0700 establish standards that must be met in determining whether to use electroconvulsive therapy with a patient residing in a state facility and in obtaining consent to proceed with the treatment if its use is indicated.

Parts 9515.0200 to 9515.0700 also define psychosurgery and clarify that it is rarely used, is considered a treatment of last resort, and is not performed at state facilities. If psychosurgery is indicated for a patient residing in a state facility, part 9515.0450 establishes standards that facility staff must follow in referring the patient to a medical facility where the procedure can be performed.

Statutory Authority: *MS s 246.01*

History: *25 SR 1313*

9515.0300 [Repealed, 25 SR 1313]

9515.0310 DEFINITIONS.

Subpart 1. **Scope.** The terms used in parts 9515.0200 to 9515.0700 have the meanings given them in this part.

Subp. 2. **Commissioner.** "Commissioner" means the commissioner of the Minnesota Department of Human Services or the commissioner's designee.

Subp. 3. **Designated agency.** "Designated agency" means an agency selected by the county board to provide the social services required under the Minnesota Commitment and Treatment Act, Minnesota Statutes, chapter 253B.

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Subp. 4. **Electroconvulsive therapy.** "Electroconvulsive therapy" means a medical treatment in which central nervous system seizures are induced by an electrical stimulus while the patient is under general anesthesia.

Subp. 5. **Medical director of the facility.** "Medical director of the facility" means the person at a facility who holds that title. In facilities where the staff does not include a person with that title, "medical director of the facility" means the Department of Human Services medical director or the medical director's designee.

Subp. 6. **Psychosurgery.** "Psychosurgery" means a surgical intervention to sever nerve fibers connecting one part of the brain with another to remove or destroy brain tissue with the intent of modifying or altering severe disturbances of behavior, thought content, or mood.

Subp. 7. **State facility.** "State facility" means any facility owned or operated by the state of Minnesota and under the programmatic direction or fiscal control of the commissioner.

Statutory Authority: *MS s 246.01*

History: *25 SR 1313*

9515.0400 [Repealed, 25 SR 1313]

9515.0450 CONDITIONS GOVERNING REFERRALS FOR PSYCHOSURGERY.

If psychosurgery appears to be indicated for a patient residing in a state facility, the patient must be referred to a neurosurgical center and the referral must be approved by the facility medical director and the Department of Human Services medical director. Psychosurgery shall be considered a procedure of last resort. A referral may be made only when all other somatic treatments have failed with a patient whose obsessive compulsive disorder, seizure disorder, or pain syndrome is chronic and intractable and who is severely disabled and at extreme risk for debilitating self-injury or death. The neurosurgical center to which the patient is referred is responsible for taking the steps necessary to obtain consent and to meet any other legal requirements necessary to perform the procedure.

Statutory Authority: *MS s 246.01*

History: *25 SR 1313*

9515.0500 CONDITIONS GOVERNING USE OF ELECTROCONVULSIVE THERAPY.

Electroconvulsive therapy shall not be administered to adult patients residing in a state facility unless the medical director of the facility, after consultation with the patient's treating physician, has determined according to part 9515.0600 that electroconvulsive therapy is medically indicated; and unless one of the authorizations or consents described in item A or B applies. In the case of patients under age 18, including emancipated minors, electroconvulsive therapy shall not be administered without the judicial authorization required in part 9515.0700, subpart 1.

A. The patient is incapacitated and unable to consent to the treatment but authorization or consent exists because:

- (1) there is a court order authorizing electroconvulsive therapy;
- (2) a court-appointed guardian or conservator authorized by a court to consent to the treatment on the patient's behalf has given informed consent to a request from the state facility under this part; or
- (3) the patient has a valid advance directive that permits the treatment.

B. The patient has the capacity to give informed consent and does give written, informed consent for the treatment. A patient has capacity to give informed consent when the following conditions are met:

- (1) the patient demonstrates an awareness of the nature of the patient's condition, including the need for treatment and the possible consequences of refusing treatment;
- (2) the patient demonstrates an understanding of the proposed treatment and the risks, benefits, and alternatives to such treatment; and
- (3) the patient communicates a clear choice regarding the treatment and the choice is a reasoned one, not based on delusion. Disagreement with the physician's recommendation is not evidence of incapacity.

Statutory Authority: *MS s 246.01; 252.28; 256B.092; 256B.503*

History: *L 1984 c 654 art 5 s 58; 12 SR 1148; 25 SR 1313*

9515.0600 FACTORS TO BE CONSIDERED IN DETERMINING MEDICAL INDICATIONS.

In assessing whether electroconvulsive therapy is medically indicated, the medical director of the state facility where the patient resides or the patient's physician shall consider the following factors:

- A. the predicted extent and duration of the therapeutic effects on mental activity and behavior patterns that the electroconvulsive therapy is expected to produce;
- B. the risks of adverse side effects compared with potential benefits to the patient;
- C. the likelihood that the treatment will produce the desired effects;
- D. whether alternative treatments are available that produce less risk;
- E. the medical community's standard for use of electroconvulsive therapy; and
- F. the patient's capacity to determine whether the treatment is desirable.

Statutory Authority: *MS s 246.01*

History: *17 SR 1279; 25 SR 1313*

9515.0700 HEARINGS.

Subpart 1. **Judicial authorization required.** If a court order is required to authorize electroconvulsive therapy, the state facility's medical director or the director's designee shall petition the district court in the county of commitment for an order authorizing the treatment. If the patient has a court-appointed guardian or conservator, the medical director shall ask the guardian or conservator to seek authority to consent to electroconvulsive therapy in the district court in which the guardianship or conservatorship was established. When necessary and appropriate for the patient's welfare, the petition may be filed in the county where the patient is present.

Subp. 2. **Contents of petition.** The petition shall state that consent is requested to administer electroconvulsive therapy, describe its purpose, recite the risks and effects of the procedure, and recite the findings of the medical director and treating physician as provided in parts 9515.0500 and 9515.0600.

The petition may request the appointment of a guardian ad litem to represent the patient's interests.

Subp. 3. **Copy of petition for agency.** A copy of the petition shall be supplied to the designated agency in the county of financial responsibility in advance of the hearing.

Subp. 4. **County attorney.** The medical director shall seek representation from the county attorney of the county in which the hearing is held. In the event the county attorney is unable to provide such representation, the medical director shall seek legal representation through the Department of Human Services.

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Subp. 5. **Cost of hearing.** The cost of such hearings shall be met by the county financially responsible for the patient as specified by Minnesota Statutes, section 256D.18, subdivision 2.

Statutory Authority: *MS s 246.01*

History: *L 1984 c 654 art 5 s 58; 17 SR 1279; 25 SR 1313*

9515.0800 [Repealed, 25 SR 1313]

**REIMBURSEMENT FOR COST OF CARE OF PATIENTS
AND RESIDENTS IN STATE FACILITIES**

9515.1000 SCOPE AND STATUTORY AUTHORITY.

Parts 9515.1000 to 9515.2600 govern the administration of the state facilities cost of care program in the Department of Human Services. Parts 9515.1000 to 9515.2600 are to be read in conjunction with Minnesota Statutes, sections 246.50 to 246.55 and other rules of the department. Parts 9515.1000 to 9515.2600 do not apply to persons admitted to chemical dependency treatment programs who are eligible to have chemical dependency treatment paid for with funds from the consolidated chemical dependency treatment fund under Minnesota Statutes, chapter 254B and parts 9530.7000 to 9530.7030.

Statutory Authority: *MS s 246.01; 246.23; 246.51*

History: *L 1984 c 654 art 5 s 58; 12 SR 2252*

9515.1100 [Repealed, 12 SR 2252]

9515.1200 DEFINITIONS.

Subpart 1. **Scope.** For purposes of parts 9515.1000 to 9515.2600, the following terms have the meanings given them.

Subp. 2. **Business expense.** "Business expense" means the cost of producing income from a business or farm. Capital expenditures and depreciation are not included as part of a business expense.

Subp. 3. **Capital expenditure.** "Capital expenditure" means an investment made to purchase property or to make an improvement to property which has a useful life of more than one year.

Subp. 3a. **Client.** "Client" means a person receiving services at a state facility, whether or not those services require occupancy of a bed overnight. Client includes:

- A. an inpatient;
- B. a resident patient;
- C. an outpatient;
- D. a day patient;
- E. a patient; and
- F. a resident.

Subp. 4. **Cost of care.** "Cost of care" means the cost of providing services to state facility clients, calculated in accordance with Minnesota Statutes, section 246.50, subdivision 5.

Subp. 5. **Department.** "Department" means the Minnesota Department of Human Services.

Subp. 6. **Dependent.** "Dependent" means an individual whom a person is entitled to claim as a dependent on the Minnesota state income tax return. An individual may not be claimed as a full unallocated dependent by more than one person. When two or more persons are entitled to claim the dependent, the dependent shall be allocated equally among the persons unless the persons choose another allocation.

Subp. 6a. **Financial file.** "Financial file" means financial data collected for the purpose of determining ability of the client or the responsible relative to pay the client's cost of care.

Subp. 7. **Gross income or gross earnings.** "Gross income" or "gross earnings" means all income received except dividends and interest.

Subp. 8. **Homestead.** "Homestead" means the house owned and occupied by the client as his or her dwelling place, together with the land upon which it is situated as limited by Minnesota Statutes, section 510.02.

Subp. 9. [Repealed 10 SR 1589]

Subp. 10. [Repealed, 16 SR 1797]

Subp. 11. **Lump sum payment.** "Lump sum payment" means income received at one time. It includes windfalls, repayment of debts, payments from sale of property, tax refunds, gifts, and inheritances.

Subp. 12. **Net income.** "Net income" means the amount of income remaining after deductions and exclusions from gross income as provided in parts 9515.1000 to 9515.2600.

Subp. 13. [Repealed, 16 SR 1797]

Subp. 14. [Repealed, 16 SR 1797]

Subp. 15. [Repealed, 16 SR 1797]

Subp. 16. **Person.** "Person" means a client, responsible relative, conservator, legal guardian, representative payee, trustee, county financial or social worker, case manager, or attorney.

Subp. 17. **Personal property.** "Personal property" means all property which is not real property including dividends and interest.

Subp. 18. **Property.** "Property" means everything owned by a person, including money.

Subp. 19. **Real property.** "Real property" means land, including the buildings and improvements on it, and its natural assets, such as minerals and water.

Subp. 19a. [Repealed, 16 SR 1797]

Subp. 20. **Resource.** "Resource" means any property or benefit that is available to pay for the cost of care of the client.

Subp. 21. **Responsible relative.** "Responsible relative" means the spouse and the parents of minor children in that order of liability for cost of care.

Subp. 21a. **Services.** "Services" means all services in a state facility. The following are services:

- A. observation;
- B. care;
- C. treatment;
- D. diagnostic services;
- E. therapeutic services;
- F. counseling services treatment; and
- G. other related assistance.

Subp. 22. **State facility.** "State facility" means a regional treatment center, state nursing home, or other facility, as defined by Minnesota Statutes, section 246.50, subdivision 3.

Statutory Authority: *MS s 246.01; 246.23; 246.51*

History: *8 SR 172; L 1984 c 654 art 5 s 58; 10 SR 1589; 12 SR 2252; 16 SR 1797*

9515.1300 TIME OF DETERMINATION.

Ability to pay the cost of care shall be determined when the client is admitted, when there is a change in the person's financial status, when a client, responsible relative,

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guardian, conservator, or representative payee reports a change in the financial status used in determining ability to pay, when the client has been hospitalized for 120 days or more, when the client is being discharged, and when the responsible relative's financial status has not been reviewed for one year.

Within the six-year period after the date of a client's discharge from the facility, the department from time to time may, and upon request of the client shall, reevaluate the client's ability to pay any balance of the charge for cost of care.

Statutory Authority: *MS s 246.01; 246.23; 246.50 to 246.55*

History: *10 SR 1589; 12 SR 2252; 16 SR 1797*

9515.1400 PERSONS INTERVIEWED TO DETERMINE ABILITY TO PAY.

In all instances the client shall be present at the interview to determine ability to pay unless the client is a minor or the treatment staff of the state facility attests the client's presence is medically contraindicated. When the client cannot be present at the interview, the reason shall be noted in the financial file for that client.

The client shall be the source of financial information to determine ability to pay except when the management of the client's financial affairs is in the hands of another person. When the client is not the source of financial information the reason shall be noted in the financial file for that client.

When the client is not able to act on his or her own behalf, the person interviewed shall be the client's legal guardian, the conservator, the parents of a minor child, a spouse, a relative of the client, a trustee, a representative payee, the client's legal representative, or a county social worker.

If the client is unable to pay the full cost of the care, the responsible relative shall be interviewed.

Statutory Authority: *MS s 246.01; 246.23; 246.50 to 246.55*

History: *10 SR 1589; 12 SR 2252; 16 SR 1797*

9515.1500 FINANCIAL INTERVIEW.

When a person is interviewed, the department shall:

A. inform the person that he or she may choose an individual to assist in the determination process and any other contact with the department by authorizing such assistance in writing;

B. provide the person with an informational pamphlet on cost of care and review with the person how the department determines the charges for the client's cost of care;

C. inform the person that financial information obtained from the person will not be released without the person's written consent except pursuant to Minnesota Statutes, chapter 13;

D. inform the person of county, state, and federal financial programs which may assist in paying the cost of care and meeting personal and family needs;

E. inform the person of the legal obligation to provide sufficient information, required documents, and proof necessary to determine ability to pay and of the consequences of the failure to do so;

F. provide the person the following forms which the department uses to investigate the person's financial resources: the financial information form, the insurance claim and assignment of insurance benefits form, and the form or forms consenting to the release of information necessary to obtain or verify information about the person's resources; and

G. request the person to complete and sign the forms provided by the department and to provide verification of financial information.

Statutory Authority: *MS s 246.01; 246.23; 246.51*

History: *8 SR 172; 12 SR 2252; 16 SR 1797*

9515.1600 VERIFICATION REQUIRED.

This process shall be used to substantiate information entered on the signed financial information form. The department shall verify: the person's income, insurance benefits, property, deductions allowed to pay previously incurred debts, and the number of dependents claimed.

Statutory Authority: *MS s 246.50 to 246.55*

History: *10 SR 1589*

9515.1700 CONSENT FORMS.

The person shall provide the department with a separate signed consent form for each verification which must be obtained from a third party. The name, date, and the information authorized shall be on the consent form prior to the person's signature. A blanket authorization may be used for a group of related agencies such as banks or insurance companies.

Statutory Authority: *MS s 246.50 to 246.55*

History: *10 SR 1589*

9515.1800 REFUSAL TO COMPLETE FINANCIAL INFORMATION FORM.

Failure or refusal to complete and sign the required financial information form, apply insurance benefits received to pay the cost of care, or provide signatures required to assign third party benefits and release medical and financial information or verification within 30 days of the interview shall result in the determination that the person is able to pay the full cost of care permitted under Minnesota Statutes, section 246.51 until the person takes the required action.

Statutory Authority: *MS s 246.51*

9515.1900 DETERMINATION ORDER AND NOTICE OF RATE.

A determination order and notice of rate showing the cost of care, the amount the person is ordered to pay and the right to a review and an appeal shall be sent by the department to the person, and the person's guardian, conservator, or representative payee.

Statutory Authority: *MS s 246.51*

History: *16 SR 1797*

9515.2000 REQUEST FOR REVIEW OF DETERMINATION.

A person who disagrees with the department's determination of ability to pay may request that the department review its decision. The request shall be made in writing within 15 calendar days of the date the order was mailed. The request for review shall include the reasons for disagreeing with the determination order. When a person requests review as provided in this part, the department's determination shall not become final until the department responds to the request for the review. The department shall send the person a notice of the decision after review and a final determination order.

Statutory Authority: *MS s 246.51*

9515.2100 APPEAL OF DETERMINATION.

A person may also appeal from the determination order pursuant to Minnesota Statutes, section 246.55.

Statutory Authority: *MS s 246.51*

9515.2200 SOURCES OF INCOME CONSIDERED.

Subpart 1. **In general.** The client's ability to pay shall be determined from insurance benefits, net income, and value of property owned.

Subp. 2. **Insurance benefits.** When the investigation of the client's ability to pay discloses eligibility for insurance benefits, the client shall be determined to be able to pay the

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cost of care provided to the full extent of insurance benefits available. The dollar amount of this coverage need not be specified in the determination order.

When the insurance benefits pay less than the cost of care, the ability of the client to pay the remaining part of the cost of care shall be determined from the client's net income and nonexcluded property.

Subp. 3. **Net income.** The client's entire net income remaining after the deductions from gross income have been made in accordance with part 9515.2300, subpart 4, except Supplemental Security Income paid under section 1611(e)(1)(E) of the Social Security Act, United States Code, title 42, section 1382(e)(1)(E), as amended through November 10, 1986, shall be available to pay the cost of care.

Subp. 4. **Property.** As long as the client owns property not excluded under part 9515.2500, the client shall be determined able to pay the full cost of care.

Statutory Authority: *MS s 246.01; 246.23; 246.50 to 246.55*

History: *10 SR 1589; 12 SR 2252; 16 SR 1797*

9515.2300 NET INCOME OF CLIENT.

Subpart 1. [Repealed, 10 SR 1589]

Subp. 2. **Lump sums.** Lump sums, other than excluded property, shall be treated as income in the month received and thereafter shall be treated as property, except that retroactive awards of retirement, survivors, and disability insurance shall be excluded as property for six months if retained after the month of receipt. The client shall report the lump sum to the department within ten working days.

Subp. 3. **Seasonal income from business or farm.** Average monthly amounts for gross income and the deductions allowed in subpart 4 shall be used to calculate the net monthly income of farmers and other individuals who experience seasonal variations in income and business expenses.

Subp. 4. **Deductions from gross income to arrive at net income.** The following items shall be deducted from the client's monthly gross income:

- A. State and federal income tax payments, including back assessments.
- B. Payments made under the Federal Insurance Contributions Act and Supplemental Medical Insurance.
- C. Child care costs paid by the client and not reimbursed from any source.
- D. Support payments ordered by a court and actually paid. If this deduction is taken, the individual for whom support is paid shall not be included as a member of the client's household in determining the monthly household living allowance in part 9515.2400.
- E. Guardianship fees.
- F. Monthly payments on previously incurred bills for medical, dental, and hospital care, car payments, house payments or rent, and utilities. The deduction allowed shall be the lesser of the sum of the actual monthly payments or \$100 per month.
- G. Personal expenses of employment, including mandatory retirement fund deductions, cost of transportation to and from work, work uniforms, union dues, dues of a professional association required for employment, and cost of tools and equipment used on the job. The amount deducted for costs of transportation to and from work shall be either the actual cost of public transportation or a per mile reimbursement as paid by the state to an employee using a personal car on state business for actual miles traveled.
- H. Hospital and medical insurance premiums.
- I. Business and farm expenses as reported on United States income tax returns. The cost of repairs and upkeep of income producing property which may be deducted shall be limited, on an annual basis, to two percent of the value of the property.

J. An allowance of \$86 per month per boarder, \$71 per month per roomer, and \$157 per month for each person who is both a roomer and boarder. This amount shall be updated periodically by the percentage the legislature authorizes for public assistance grants.

K. A personal needs and clothing allowance of the client in the amount determined under Minnesota Statutes, section 256B.35 for persons receiving public assistance grants. In addition, a special personal allowance drawn solely from earnings from any productive employment under an individual plan of rehabilitation or work therapy shall be given to all clients in state facilities. The special personal allowance shall not exceed 50 percent of net monthly income.

L. Sixty percent of the income earned from child care in one's own home or, if the client chooses, the actual itemized business expenses incurred in providing child care subject to the limitations provided in parts 9515.1200, subparts 2 and 3; and 9515.2300, subpart 4, item I.

M. A client receiving inpatient services without dependents living in his or her home shall be allowed the actual cost of his or her housing and utilities in the community for the month of admission and a period of three months of continuous hospitalization subsequent to that admission. A client receiving inpatient services with dependents living in his or her home shall be allowed a pro rata share of his or her household's total actual housing costs during the month of admission and for a period of three months of continuous hospitalization subsequent to that admission. This housing allowance shall be available to the client receiving inpatient services only twice in any one calendar year regardless of the number of times the client is admitted to a state facility in that calendar year. A client receiving outpatient services or former client shall be allowed the actual cost of his or her housing and utilities.

N. A monthly household living allowance calculated according to the schedule in part 9515.2400.

Statutory Authority: *MS s 246.01; 246.23; 246.50 to 246.55*

History: 8 SR 172; 10 SR 1589; 12 SR 2252; 16 SR 1797

9515.2400 MONTHLY HOUSEHOLD LIVING ALLOWANCE SCHEDULE.

Number in Household	Monthly Household Living Allowance
1	\$ 539
2	\$ 809
3	\$ 1,073
4	\$ 1,349
5	\$ 1,618
6	\$ 1,888
over 6	\$ 1,888 plus
	\$ 280 for each additional person

The number of persons in the household of a client receiving inpatient services is the number of dependents the client claims. The number in the household of a client receiving outpatient services or former client shall be the client plus the number of dependents claimed. The gross monthly income of a client's spouse, if any, shall be deducted from the housing allowances shown above.

By July 1 of each year, the department shall adjust the monthly household living allowance to reflect the annual percentage change reported in the most recent Consumer Price

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Index, for all urban consumers in the Minneapolis-Saint Paul area. The Consumer Price Index shall be as published by the Bureau of Labor Statistics, United States Department of Labor. The year 1967 is the standard reference base period.

By July 1 of each year, the department shall publish the adjusted monthly household living allowance in a department bulletin.

Statutory Authority: *MS s 246.01; 246.23; 246.50 to 246.55*

History: *10 SR 1589; 12 SR 2252; 16 SR 1797*

9515.2500 PROPERTY OF CLIENT.

Subpart 1. **In general.** Property shall be available to pay for the cost of the client's care to the extent owned by the client, subject to the exclusions in subparts 2 to 7.

Subp. 2. **Real property.** The value of the client's homestead is excluded from consideration as a resource.

The value of real property owned by the client which produces a net income is excluded from consideration as a resource. Real property which the client is selling on a contract for deed and for which the client receives payments is considered income producing property.

Subp. 3. **Personal property.** The value of the following personal property is excluded from consideration as a resource:

A. the value of personal property other than stocks, bonds, and other investment instruments which is owned by the client and which yields or contributes to the production of a net income, such as tools, farm implements, livestock, and business inventory and fixtures acquired prior to hospitalization;

B. the cash or liquid assets for a single client and the cash or liquid assets for a married couple shall be the standard for medical assistance recipients as provided in Minnesota Statutes, section 256B.056, subdivision 3, as from time to time amended;

C. Indian claim payments made by Congress to compensate for tribal land taken by the federal government;

D. Minnesota Housing Finance Agency loans for nine months after issuance;

E. one vehicle;

F. household goods and furniture;

G. clothing;

H. manufactured home used as a home by the client or the client's dependents;

I. personal jewelry;

J. bicycles;

K. cameras;

L. life insurance owned by the client is the standard for medical assistance recipients as provided in Minnesota Statutes, section 256B.056, subdivision 3, as from time to time amended;

M. trust funds, however trust funds are not excluded from consideration if the trustee is required or has discretion to use the funds for paying the cost of care or the funds are designated for care, support, maintenance, or medical care even if the trust requires that public funds must first be exhausted; and

N. burial expenses, including a burial lot and a prepaid burial account, shall be the standard for medical assistance recipients as provided in Minnesota Statutes, section 256B.056, subdivision 3, as from time to time amended.

Subp. 4. **Waiver of property as a resource.** The department shall waive consideration of property in excess of the exemptions when the client's equity cannot be liquidated, the offered price is less than 80 percent of the market value given by two appraisers agreeable to both parties, or the cost of repairs necessary to meet the conditions of sale exceeds 35 percent of the offered price.

Each case shall be referred to the department's reimbursement division central office and decided on the merits of the facts recorded in the client's financial file to substantiate the circumstances.

The decision to waive the consideration shall be examined at least annually for changes in market value, opportunity for sale or mortgage, and other pertinent factors.

Subp. 5. **Transfer of property.** The market value of any property transferred, less any value received, shall be treated as an available resource if the property is valued at more than \$1,000 and if the transfer is for less than the market value and if the transfer is made:

- A. during or after hospitalization in a state facility; or
- B. prior to hospitalization in a state facility, but with intent to avoid the use of the property to pay for facility care or in determining ability to pay for care; or
- C. prior to hospitalization in a state facility but within 24 months of admission.

Subp. 6. **Documentation required.** When property described in subpart 5 is transferred during the period between two years prior to admission to a state facility and six years following discharge, the client or the representative shall provide documentation of the circumstances of the transfer.

Subp. 7. **Exemption.** The provisions of subparts 5 and 6 do not apply when the client is not continuing to accrue charges and the full cost of care has been paid. The provisions of subparts 5 and 6 do not apply to property excluded from consideration under other provisions of parts 9515.1000 to 9515.2600.

Statutory Authority: *MS s 246.01; 246.23; 246.50 to 246.55*

History: *8 SR 172; 10 SR 1589; 12 SR 2252; 16 SR 1797*

9515.2600 RESPONSIBLE RELATIVE'S ABILITY TO PAY.

Subpart 1. **In general.** When the client is determined not to be able to pay the full cost of care, the department shall determine the ability of each responsible relative of the client to pay the amount permitted by statute.

Subp. 2. **Interview.** The responsible relative shall be contacted to obtain and verify financial information.

Subp. 3. **Insurance benefits.** The responsible relative shall inform the department about dependent benefits from hospital and medical insurance carried by the relative.

Dependent benefits to a client shall be considered the same as the client's insurance.

Any difference between benefits to a client and others covered by the responsible relative's policy shall be verified.

The responsible relative shall complete and sign the forms necessary to verify eligibility for benefits and assign benefits to pay the cost of care of the client.

The amount of the premium paid by the responsible relative may be deducted from the responsible relative's total obligation to pay.

Subp. 4. **Liability of responsible relatives.** When the sum of the benefits described in subpart 3 and the client's other resources pay less than the full cost of care, the ability of each responsible relative to pay shall be determined in the statutory order of liability for cost of care. When two responsible relatives have the same order of liability for cost of care, a determination shall be made for each one except that a joint determination shall be made for parents who reside in the same household.

Subp. 5. **Limitations on relative's ability to pay.** The ability of a responsible relative to pay shall be determined from the annual gross earnings of the responsible relative subject to the following limitations:

A. A responsible relative who verifies annual gross earnings of less than \$11,000 shall be determined not able to pay the cost of care.

B. No responsible relative who is a resident of Minnesota shall be ordered to pay more than ten percent of the cost of care for each client except that the responsible relative who has failed to provide the information, documents, and proofs which are necessary to

determine ability to pay as required by part 9515.1500, items F and G may be ordered to pay the full cost of care until such time as they are provided.

C. The department may require full payment of the full cost of care for a client whose parents or parent, spouse, guardian, or conservator do not reside in Minnesota and are financially able to pay as determined by the department.

D. Only the annual gross earnings of the spouse of a client shall be used to determine the spouse's ability to pay.

E. When a responsible relative is married to a person who is not a responsible relative, only the annual gross earnings of the responsible relative shall be used to determine the responsible relative's ability to pay.

F. The department may accept from the responsible relatives voluntary payments in excess of ten percent.

G. The liability of parents for cost of care provided to minor children shall be determined according to Minnesota Statutes, section 252.27, subdivision 2, and rules adopted under that section.

Subp. 6. Determination of relative's ability to pay. A responsible relative who provides the department the information, documents, and proofs necessary to determine ability to pay as provided in part 9515.1500, items F and G shall have his or her ability to pay determined from the table in subpart 8. For purposes of this table, household size consists of the responsible relative and the responsible relative's dependents living in the responsible relative's household, other than the client.

A responsible relative who chooses not to provide the department the information, documents, and proofs necessary to determine ability to pay as provided in part 9515.1500, items F and G may be determined liable for the full cost of care.

Subp. 7. Purpose of table. The table in subpart 8 shall be used to determine a relative's ability to pay, as described in subpart 6. When there is a change in the cost of care, the department shall revise subpart 8. Adjustments shall be made according to the following formula: at each level of annual gross earnings, daily payments equal to ten percent of the cost of care for the previous year shall be adjusted to equal either the daily payment at the next lower level of earnings plus 25 percent, or ten percent of the cost of care for the current year, whichever is less; successive levels of earnings shall be added to subpart 8 if needed to incorporate daily payments up to ten percent of the cost of care for the current year; the daily payment of a responsible relative whose earnings are above these levels shall be at ten percent of the current cost of care.

Subp. 8. Daily payment based on ability to pay according to household size and annual gross earnings of responsible relatives.

Annual Gross Earnings of Responsible Relative	Household Size									
	1	2	3	4	5	6	7	8	9	10
11,000- 11,999	.33	0								
12,000- 12,999	.45	.33	0							
13,000- 13,999	.57	.45	.33	0						
14,000- 14,999	.72	.57	.45	.33	0					
15,000- 15,999	.87	.72	.57	.45	.33	0				
16,000- 16,999	1.05	.87	.72	.57	.45	.33	0			
17,000- 17,999	1.23	1.05	.87	.72	.57	.45	.33	0		
18,000- 18,999	1.45	1.23	1.05	.87	.72	.57	.45	.33	0	

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19,000- 19,999	1.81	1.45	1.23	1.05	.87	.72	.57	.45	.33	0
20,000- 20,999	2.26	1.67	1.45	1.23	1.05	.87	.72	.57	.45	.33
21,000- 21,999	2.82	1.92	1.67	1.45	1.23	1.05	.87	.72	.57	.45
22,000- 22,999	3.52	2.17	1.92	1.67	1.45	1.23	1.05	.87	.72	.57
23,000- 23,999	4.41	2.45	2.17	1.92	1.67	1.45	1.23	1.05	.87	.72
24,000- 24,999	5.51	3.06	2.45	2.17	1.92	1.67	1.45	1.23	1.05	.87
25,000- 25,999	6.89	3.82	2.75	2.45	2.17	1.92	1.67	1.45	1.23	1.05
26,000- 26,999	8.61	4.77	3.05	2.75	2.45	2.17	1.92	1.67	1.45	1.23
27,000- 27,999	10.76	5.96	3.37	3.05	2.75	2.45	2.17	1.92	1.67	1.45
28,000- 28,999	13.45	7.46	4.21	3.37	3.05	2.75	2.45	2.17	1.92	1.67
29,000- 29,999	16.81	9.32	5.26	3.72	3.37	3.05	2.75	2.45	2.17	1.92
30,000- 30,999	21.01	11.65	6.57	4.07	3.72	3.37	3.05	2.75	2.45	2.17
31,000- 31,999	23.30	14.56	8.21	4.45	4.07	3.72	3.37	3.05	2.75	2.45
32,000- 32,999	26.29	18.20	10.26	4.83	4.45	4.07	3.72	3.37	3.05	2.75
33,000- 33,999	27.15	22.75	12.83	6.03	4.83	4.45	4.07	3.72	3.37	3.05
34,000- 34,999	27.15	27.15	16.04	7.53	5.25	4.83	4.45	4.07	3.72	3.37
35,000- 35,999	27.15	27.15	20.05	9.41	5.67	5.25	4.83	4.45	4.07	3.72
36,000- 36,999	27.15	27.15	25.06	11.76	6.12	5.67	5.25	4.83	4.45	4.07
37,000- 37,999	27.15	27.15	27.15	14.70	7.56	6.12	5.67	5.25	4.83	4.45
38,000- 38,999	27.15	27.15	27.15	18.38	9.45	7.56	6.12	5.67	5.25	4.83
39,000- 39,999	27.15	27.15	27.15	22.96	11.81	9.45	7.56	6.12	5.67	5.25
40,000- 40,999	27.15	27.15	27.15	27.15	14.76	11.81	9.45	7.56	6.12	5.67
41,000- 41,999	27.15	27.15	27.15	27.15	18.45	14.76	11.81	9.45	7.56	6.12
42,000- 42,999	27.15	27.15	27.15	27.15	23.06	18.45	14.76	11.81	9.45	7.56
43,000- 43,999	27.15	27.15	27.15	27.15	27.15	23.06	18.45	14.76	11.81	9.45
44,000- 44,999	27.15	27.15	27.15	27.15	27.15	27.15	23.06	18.45	14.76	11.81
45,000- 45,999	27.15	27.15	27.15	27.15	27.15	27.15	27.15	23.06	18.45	14.76
46,000- 46,999	27.15	27.15	27.15	27.15	27.15	27.15	27.15	27.15	23.06	18.45
47,000- 47,999	27.15	27.15	27.15	27.15	27.15	27.15	27.15	27.15	27.15	23.06
48,000- 48,999	27.15	27.15	27.15	27.15	27.15	27.15	27.15	27.15	27.15	27.15

Subp. 9. **Maximum rate.** When the annual gross earnings exceed the amount shown in the table in subpart 8, the daily payment shall be at the statutory limitation of ten percent of the cost of care.

Subp. 10. **Verification of financial information.** The annual gross earnings of a relative and the number of dependents of a relative shall be verified from the relative's Minnesota state income tax return or, in the case of a relative who is not a resident of Minnesota and does not file a Minnesota state income tax return, from the United States income tax return.

The amount of the premium paid by the relative to provide dependent hospital and medical insurance coverage for the client shall be verified.

Subp. 11. **Clothing and personal needs allowance of a minor.** The parents of a client who is an unmarried, dependent child are responsible for meeting the child's clothing and

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personal needs allowance in addition to the amount they are determined able to pay to meet the cost of care.

Statutory Authority: *MS s 246.01; 246.23; 246.50 to 246.55*

History: *8 SR 172; 10 SR 1589; 12 SR 2252; 16 SR 1797*

**MINNESOTA SEXUAL PSYCHOPATHIC PERSONALITY
TREATMENT CENTER**

9515.3000 DEFINITIONS.

Subpart 1. **Scope.** As used in parts 9515.3000 to 9515.3110, the following terms have the meanings given them.

Subp. 2. **Commissioner.** "Commissioner" means the commissioner of the Minnesota Department of Human Services or the commissioner's designated representative.

Subp. 3. **Department.** "Department" means the Minnesota Department of Human Services.

Subp. 4. **Minnesota Sexual Psychopathic Personality Treatment Center.** "Minnesota Sexual Psychopathic Personality Treatment Center" means the secure facility established at Moose Lake by Minnesota Statutes, section 246B.02, to provide care and treatment for:

A. persons committed there by the courts as sexual psychopathic personalities or sexually dangerous persons; or

B. persons admitted there with the consent of the commissioner.

Subp. 5. **Person or person in treatment.** "Person" or "person in treatment" means a person committed to the Minnesota Sexual Psychopathic Personality Treatment Center or admitted there with the consent of the commissioner as provided in Minnesota Statutes, section 246B.02.

Subp. 6. **Sexually dangerous person.** "Sexually dangerous person" has the meaning given in Minnesota Statutes, section 253D.02, subdivision 16.

Subp. 7. **Sexual psychopathic personality.** "Sexual psychopathic personality" has the meaning given in Minnesota Statutes, section 253D.02, subdivision 15.

Subp. 8. **Treatment staff.** "Treatment staff" means staff members of the Minnesota Sexual Psychopathic Personality Treatment Center who are responsible for arranging, evaluating, planning, coordinating, or providing the programming and services required in part 9515.3040, subpart 1.

Subp. 9. **Treatment support staff.** "Treatment support staff" means staff members of the Minnesota Sexual Psychopathic Personality Treatment Center whose primary responsibility is to maintain a secure and orderly environment supportive of treatment by performing such duties as escorting persons, observing persons' behavior, and directing group activities on the unit.

Statutory Authority: *MS s 246B.04*

History: *20 SR 935; L 2013 c 49 s 22*

9515.3010 PURPOSE AND APPLICABILITY.

Parts 9515.3000 to 9515.3110 apply only to residential treatment programs operated by the commissioner primarily for persons committed as sexual psychopathic personalities or as sexually dangerous or admitted with the commissioner's consent. The purpose of parts 9515.3000 to 9515.3110 is to govern the operation, maintenance, and licensure of these department-administered treatment programs. As of October 30, 1995, the Minnesota Sexual Psychopathic Personality Treatment Center at Moose Lake is the only such treatment program.

Statutory Authority: *MS s 246B.04*

History: *20 SR 935*

9515.3020 PROGRAM ADMISSION CRITERIA.

Except when admitted with the commissioner's consent as provided in Minnesota Statutes, section 246B.02, persons admitted to a treatment program licensed under parts 9515.3000 to 9515.3110 must meet one of the criteria in items A to C.

A. A court hold order is in effect under a petition for the person's commitment as a sexual psychopathic personality or sexually dangerous person.

B. A warrant of commitment has been issued for the person as a sexual psychopathic personality or sexually dangerous person pursuant to Minnesota Statutes, chapter 253B.

C. Final commitment action committing the person as a sexual psychopathic personality or sexually dangerous person has been taken under Minnesota Statutes, chapter 253B.

Statutory Authority: *MS s 246B.04*

History: *20 SR 935*

9515.3030 EVALUATION, ASSESSMENT, AND TREATMENT PLANNING.

Subpart 1. **Multidisciplinary assessment.** The license holder must assess each person entering the treatment program within ten days after admission to determine the person's need for medical care, nursing services, psychological services, social services, chemical dependency treatment, education and vocational training, and recreation and leisure activities. After the initial assessment, the license holder must update assessments on all persons at least annually.

Subp. 2. **Psychiatric evaluation.** A psychiatrist must evaluate each person within three working days after the person is admitted and reevaluate each person at least annually.

Subp. 3. **Follow-up to psychiatric evaluation.** Specific mental health interventions indicated in addition to the usual sex offender treatment program must be prescribed and monitored by a psychiatrist. These interventions must be integrated into the treatment plan.

Subp. 4. **Individual treatment planning.** Within 14 days after a person is admitted, a multidisciplinary team led by the program director or program director's designee must develop and begin implementing a written treatment plan for the person. Based on the assessments and evaluation in subparts 1 and 2, the plan must identify the person's needs; determine the phase of treatment where it is most appropriate for the person to begin treatment; establish goals; assign staffing responsibility; and provide for at least quarterly review. At a minimum, the team must include the person, a psychologist, a social worker, a nurse, and a member of the treatment support staff. When psychiatric or medical treatment is required, a physician must also be included on the team.

The case manager assigned by the county responsible for providing the person's social services must be notified of and given the opportunity to participate in all team meetings. Treatment staff who provide services identified in the treatment plan must also receive notice of team meetings and be given the opportunity to participate.

Statutory Authority: *MS s 246B.04*

History: *20 SR 935*

9515.3040 TREATMENT PROGRAM SERVICES.

Subpart 1. **Scope of treatment program services.** At a minimum, a license holder's program services and resources must include:

A. specific programs that address sex offense behaviors and remediation, and include, as applicable, related topics such as deviant sexual arousal patterns, assaultive behavior, human sexuality, victimization issues, reoffense prevention, and interpersonal relationships;

B. psychiatric, medical, dental, psychological, social, and advocacy services;

- C. educational programming;
- D. assessment and treatment of chemical dependency;
- E. vocational rehabilitation services; and
- F. leisure and recreational activities.

The license holder must offer treatment in a form and structure consistent with a person's capacity to participate productively.

Subp. 2. **Treatment-related policies and procedures.** A license holder must develop and follow written policies and procedures that specify how the license holder will fulfill the responsibilities in items A to G.

A. Meet data privacy laws and professional confidentiality standards, especially regarding the use and results of physiological examinations and the reporting of previously undetected criminal behavior which is disclosed by a person while in the program.

B. Evaluate individual treatment outcomes and program outcomes, including indicators to be used and processes for program improvement.

C. Prevent abuse and predation among program participants.

D. Provide gender-specific treatment where appropriate.

E. Respond to allegations of criminal acts committed by a person while in the program.

F. Monitor for contraband.

G. Provide a safe environment for staff, program participants, and visitors.

Statutory Authority: *MS s 246B.04*

History: *20 SR 935*

9515.3050 STAFFING REQUIREMENTS.

Subpart 1. **Program director.** Each licensed facility must have at least one full-time program director who meets the requirements in part 9515.3060.

Subp. 2. **Number of staff; staffing patterns.** The license holder must provide qualified treatment and treatment support staff in numbers sufficient to meet the license holder's responsibilities for evaluation and assessment, developing and implementing individualized treatment plans, providing a secure and orderly environment, and planning for discharge. The number and type of staff needed on a given unit at a given time are to be determined by the needs and characteristics of the persons on the unit in accordance with the ongoing staffing assessment required in subpart 3.

Subp. 3. **Ongoing assessment and determination of necessary staffing levels.** Staffing levels shall be assessed and determined as specified in items A to G.

A. The license holder must perform assessments to determine the staffing levels necessary to meet the safety and treatment needs of program participants and the safety needs of staff. The assessments must address staffing levels for both treatment and treatment support staff functions.

B. The assessments must be based on factors that include but are not limited to the treatment needs of individual program participants, participants' tendencies to victimize others, participants' vulnerability to being victimized, the unit's population mix, and the influence of new admissions.

C. The license holder must develop a written plan that identifies specific participant characteristics related to resource utilization and specifies methods for evaluating the effectiveness and adequacy of staffing levels necessary to provide active treatment, support order, and provide safety and security to staff and participants.

D. Assessments must be completed as often as necessary but no less than quarterly.

E. A team representing different staffing needs within the facility must complete the assessments and report the resulting data to the facility administration.

F. The administration must review and consider the reported data as part of the continuing process of monitoring established staffing levels and reestablishing staffing levels as necessary. The administration must document when staffing changes are made due to assessment data.

G. The license holder must develop policies and procedures for implementing the requirements of this subpart.

Statutory Authority: *MS s 246B.04*

History: *20 SR 935*

9515.3060 STAFF QUALIFICATIONS.

Subpart 1. **Program director.** The program director must have at least one year of work experience or training in administration or supervision, plus:

A. at least a master's degree in the behavioral sciences or related field plus at least two years of work experience providing services to sex offenders or to persons with behavioral disorders, developmental disabilities, mental illness, or chemical dependency; or

B. a bachelor's degree in the behavioral sciences or related field from an accredited college or university plus a minimum of four years of work experience providing services to sex offenders or to persons with behavioral disorders, developmental disabilities, mental illness, or chemical dependency.

Subp. 2. **Treatment staff and treatment support staff qualifications.**

A. Treatment staff members and consultants whose duties require them to be licensed, certified, or registered by the state of Minnesota must have a copy of their current license, certification, or registration in their personnel files.

B. Treatment staff members who provide assessments and individual and group counseling services must be qualified in at least one of the following ways:

(1) have a bachelor's degree in one of the behavioral sciences or related fields from an accredited college or university and at least 2,000 hours of supervised experience providing services to sex offenders or to persons with behavioral disorders, developmental disabilities, mental illness, or chemical dependency;

(2) have at least 6,000 hours of supervised experience in providing services to sex offenders or to persons with behavioral disorders, developmental disabilities, mental illness, or chemical dependency;

(3) be a graduate student in one of the behavioral sciences or related fields and be formally assigned by an accredited college or university to the facility for clinical training under the supervision of a qualified treatment staff member or consultant; or

(4) hold a master's or other graduate degree from an accredited college or university in one of the behavioral sciences or related fields.

C. A treatment staff member who provides services and programming to implement participant treatment plan objectives such as completing educational and vocational goals, identifying appropriate recreation and leisure activities, and developing social relationships with peers must, at a minimum:

(1) have completed at least two years of post-secondary education at an accredited college or university with a minimum of 18 quarter hours or 12 semester hours in the behavioral sciences, social work, or nursing; or

(2) have been employed at least 2,000 hours providing direct services to: sex offenders or to persons with behavioral disorders, mental illness, developmental disabilities, or chemical dependency.

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D. Treatment support staff must be at least 18 years old and have a high school diploma or a general education degree (GED).

Statutory Authority: *MS s 246B.04*

History: *20 SR 935*

9515.3070 STAFF ORIENTATION AND DEVELOPMENT.

Subpart 1. **Initial staff orientation and training.** The license holder is responsible for ensuring that every staff member successfully completes the orientation training specified in items A and B.

A. Before providing direct care or having any other direct contact with persons in treatment, a staff member must:

- (1) complete an overview of the treatment program philosophy and design;
- (2) demonstrate mastery of techniques used to manage behavioral emergencies, including preventive de-escalation techniques and physical and nonphysical intervention techniques to interrupt violent behavior;
- (3) be knowledgeable about the rights of persons in treatment under applicable laws such as Minnesota Statutes, sections 144.651 (the Patient Bill of Rights) and 626.557 (the Reporting of Maltreatment of Vulnerable Adults Act), and about program policies ensuring these rights;
- (4) understand how the general need to establish and maintain boundaries in a therapeutic relationship applies in the specific context of working with sexual psychopathic personalities and other sex offenders; and
- (5) review the program's emergency provisions on fire, weather, missing persons, serious injury, and death.

B. Within the first 30 calendar days of employment, all staff members must complete introductory training in:

- (1) human sexuality and specific issues raised by the program population;
- (2) awareness of the influences of culture and the importance of cultural differences;
- (3) control of infection and infectious diseases; and
- (4) assessment and individual treatment planning.

Subp. 2. **Ongoing individual staff development and evaluation plan.** The license holder must ensure that an individual staff development and evaluation plan is developed and implemented for all staff who provide, supervise, or administer direct services. The plan must:

- A. be developed within 90 days of employment and be reviewed and revised at least annually;
- B. meet the staff development needs specified in the staff member's annual employee evaluation; and
- C. address the specific age, cultural, and mental health needs of the persons being served.

Subp. 3. **Amount of annual training.** The license holder must ensure that all staff receive the amount of training specified in this subpart.

A. Except as provided in items B and C, all staff must receive at least 16 hours of training annually.

B. Staff who work more than half time and have less than 4,000 hours of experience providing services to sex offenders or to persons with behavioral disorders, developmental disabilities, mental illness, or chemical dependency must receive at least 24 hours of training annually.

C. Treatment staff members and consultants whose duties require them to be licensed, certified, or registered by the state of Minnesota are exempt from the requirements in items A and B as long as they meet the training requirements necessary to remain current in their licensure, certification, or registration.

The orientation required in subpart 1 may be counted toward the annual training requirement in an employee's first year of service.

Subp. 4. **Content of training.** The license holder must ensure that at least 75 percent of the required training hours is focused on one or more of the following areas or subjects:

A. use of preventive de-escalation techniques and physical and nonphysical intervention to interrupt violent behavior;

B. application and compliance with Minnesota Statutes and rules related to treatment and services for sex offenders;

C. assessment and treatment of persons with special needs related to conditions such as substance abuse, obsessive compulsive disorder, organic brain damage, impulse control disorders, or other physical needs;

D. prevention and control of infectious diseases, including human immunodeficiency virus (HIV) infection;

E. how to administer first aid and cardiopulmonary resuscitation (CPR); and

F. review of research, practice, or regulations that affect care and treatment programs for sex offenders.

Statutory Authority: *MS s 246B.04*

History: *20 SR 935*

9515.3080 PROGRAM SAFETY AND RULES FOR BEHAVIOR.

Subpart 1. **Program safety.** The license holder must develop and follow policies and procedures for maintaining a secure and orderly environment that is safe for persons in treatment and staff and supportive of the treatment program.

Subp. 2. **Written rules for behavior and consequences of violations.** The license holder must specify rules of behavior for persons in treatment that are consistent with maintaining program safety and supportive of the person's rights to treatment. The rules must be in writing and must include a range of consequences that may be imposed for violation of the rules. The license holder must review and approve the written rules and range of consequences at least annually.

The license holder must give each person in treatment a copy of the rules and consequences in a handbook or comparable format at the time of admission. If a person is unable to understand the written rules and consequences, the license holder must make the rules and consequences available in a form that the person can understand.

The license holder must also give each staff member a copy of the written rules and consequences and ensure that the contents are discussed in the orientation required by part 9515.3070.

Subp. 3. **Criteria for written rules.** The written rules and consequences in subpart 2 must:

A. regulate only behavior that endangers persons in treatment or others or threatens the license holder's ability to maintain the order and safety of the treatment program; and

B. be clearly and objectively stated in terms of observable behavior.

Statutory Authority: *MS s 246B.04*

History: *20 SR 935*

9515.3090 BEHAVIOR MANAGEMENT AND PROGRAM SAFETY.

Subpart 1. **Behavior management.** Disciplinary restrictions, emergency seclusion, and protective isolation may be imposed in accordance with this part when necessary to ensure a safe, secure, and orderly environment for the treatment program. For purposes of this part, disciplinary restrictions, emergency seclusion, and protective isolation have the meanings in subparts 2 to 4.

Subp. 2. **Disciplinary restrictions.** "Disciplinary restrictions" means withholding or limiting privileges otherwise available to a person in treatment as a consequence of the person's violating rules of behavior. Examples of disciplinary restrictions would include withholding or limiting such privileges as work, leisure, vocational and recreational activities, or access to parts of the facility. Disciplinary restrictions must:

- A. be in proportion to the rule's importance to the order, safety, and security of the treatment program and to the severity of the violation;
- B. be reasonably related to the nature of the behavior; and
- C. take into consideration the person's past behavior while in the program.

Subp. 3. **Emergency seclusion.** "Emergency seclusion" means an emergency intervention that physically separates the person in treatment from others, including placing the person in a room from which the person is not able or permitted to exit. Emergency seclusion does not include locking a person in the person's sleeping room during normal sleeping hours or limiting a person's access to parts of the facility to which the person would otherwise have access. Emergency seclusion must be:

- A. imposed only when necessary to protect the person being secluded or another person or individual from imminent danger of serious physical harm or to prevent serious property damage;
- B. authorized by the nurse on duty who must immediately contact a physician for an order; and
- C. continued only as long as the person's behavior indicates imminent danger continues.

Staff must monitor the person in emergency seclusion no less than every 15 minutes. A physician must review the situation at least every 24 hours.

Subp. 4. **Protective isolation.** "Protective isolation" means placing a person in treatment in a room from which the person is not able or permitted to exit as a way of defusing or containing dangerous behavior that is uncontrollable by any other means.

The license holder must have written policies on protective isolation that cover the points in items A to C.

A. Protective isolation must not be used for the convenience of staff or as a substitute for programming.

B. Treatment must be available during protective isolation to the extent that the person's behavior and condition make treatment possible; treatment shall include components designed to eliminate or reduce the specified behavior or behaviors that caused the need for protective isolation.

C. Protective isolation must not go beyond 48 continuous hours unless the treatment team recommends continuation to the medical director in a statement that:

- (1) explains why continued protective isolation is necessary;
- (2) contains an objective description of the behavior which poses the danger;
- (3) describes the frequency with which the behavior has occurred in the past;
- (4) analyzes the causes or precipitating condition for the behavior including, where appropriate, an analysis of the needs of the person which may cause the behavior;

(5) discusses why protective isolation is necessary, including a statement of the facts and data from which it is concluded that less restrictive programming will not be sufficient to prevent harm;

(6) describes the treatment plan, if any, which will be offered during the period of protective isolation;

(7) sets forth a plan for reviewing the protective isolation, including the frequency of reviews and the criteria for determining that the risk of harm is no longer sufficient to justify isolation; and

(8) is placed in the medical records of the person in protective isolation.

Continuing protective isolation is contingent on the medical director's written approval of the recommendation. If the plan for continuing protective isolation is approved, staff must follow the plan required in subitem (7).

Subp. 5. Request for review of protective isolation. The license holder must provide to a person in treatment who is placed in protective isolation a procedure which can be used immediately to request a review if the person believes the placement was unwarranted. Protective isolation may be imposed pending the outcome of the review. The review request procedure must include the elements in items A to D.

A. The review must be conducted by a panel of at least three persons, who were not participants in the decision to impose the isolation, and whose professional experience and training qualify them to assess the situation.

B. The review must be conducted and the outcome determined within seven days of being requested, excluding Saturdays, Sundays, and legal holidays, unless the review panel states in writing why a determination cannot be made within seven days and specifies when a determination will be made.

C. The person requesting the review must have the opportunity to present to the review panel evidence and argument to explain why protective isolation is unwarranted. The review panel may reasonably limit the form by which the evidence and argument are presented if necessary to ensure the physical safety of the review participants.

D. A person may request that the chief officer of the facility review a determination of the review panel. The chief officer's decision is final.

Statutory Authority: *MS s 246B.04*

History: *20 SR 935*

9515.3100 ADMINISTRATIVE RECORDS.

Subpart 1. Staff records. The license holder must maintain personnel records on all staff. The staff records must include the following information:

A. documentation that a background study has been done as required by Minnesota Statutes, section 245A.04, subdivision 3;

B. documentation of a staff person's education and experience, including current licensure, certification, or registration when required by a person's position; and

C. documentation of staff orientation and training. The record must include the date orientation or training was completed, the topics covered, and the hours of training received.

Subp. 2. General administrative records. The license holder must maintain the following administrative records and make the records available to the commissioner for inspection:

A. a directory of all persons in the treatment program;

B. a copy of the facility's licenses from the commissioner and the commissioner of health;

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C. a copy of the purchase of service contracts and subcontracts with a consultant and other individuals who provide services in the residential program, but who are not under the direct control of the license holder; and

D. a copy of the facility's quality improvement plan, including reports that monitor and evaluate current activities.

Statutory Authority: *MS s 246B.04*

History: *20 SR 935*

9515.3110 RECORDS OF PERSONS IN TREATMENT.

Subpart 1. **Central record file on premises.** The license holder must maintain a central file of persons' records on the program premises.

Subp. 2. **Admission record.** Each person's admission record must include:

- A. the person's name, date of birth, and social security number;
- B. a photograph taken at admission;
- C. the date of admission;
- D. the name, address, and telephone number of an individual to contact in case of an emergency;
- E. documentation that the person's legal or medical status meets admission criteria;
- F. names of victims identified as requiring or requesting protection from the person or notification of the person's release or change of status; and
- G. names and telephone numbers of the person's attorney, county case manager, and any other individual warranted by the person's legal or medical status.

Subp. 3. **Treatment records.** The license holder must document the course of evaluation and treatment for each person in treatment. In addition to any other documentation the license holder chooses to include, each person's record must contain:

- A. copies of the person's diagnostic assessment, individual treatment plan, progress notes, quarterly evaluation, and discharge plan;
- B. names of the person's medical providers;
- C. documentation of incidents or emergencies involving the person;
- D. copies of any State Review Board reports on the person; and
- E. a copy of the person's transfer and discharge summary when applicable.

Subp. 4. **Consent to release information in record.** The license holder shall not release information in a person's record without a written consent signed by the person that specifies:

- A. the date of authorization and length of time, not to exceed six months from the date of the person's signature, for which the consent is valid;
- B. the information that will be released;
- C. the purpose for releasing the information; and
- D. the name of the individual or organization authorized to receive the information.

Subp. 5. **Secure confidential file.** Confidential information that is not to be released to a person must be kept separate from the person's medical record in a secure confidential file. The file must be accessible to staff 24 hours a day.

Statutory Authority: *MS s 246B.04*

History: *20 SR 935*